

REMARKS/ARGUMENTS

Favorable consideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-6 are pending, with Claims 1, 5 and 6 amended by the present amendment.

In the Official Action, Claims 1-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rydbeck et al. (U.S. Patent No. 6,108,562, hereinafter Rydbeck) in view of Jones et al. (U.S. Patent No. 6,879,600, hereinafter Jones); Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Korpela (U.S. Patent No. 5,946,624) in view of Jones; and Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Korpela in view of Rydbeck and Jones.

Briefly recapitulating, amended Claim 1 is directed to a communication terminal capable of utilizing a plurality of radio communication services respectively provided by a plurality of radio communication systems establishing a shared radio communication system. The terminal includes a hardware processing unit for performing common hardware processing necessary for utilizing the radio communication services; an IC card that stores a plurality of communication software packages necessary for the respective radio communication services; a software selection unit that identifies a radio signal having the maximum reception strength and specifies a communication service provided by the communication system corresponding to the maximum reception radio signal, and selects one communication software package out of the communication software packages stored in the IC card for utilizing the specified communication service; and a software executing unit that executes the selected communication software package.

Claim 1 has been amended for clarification purposes and not for reasons related to patentability. More specifically, Claim 1 has been amended to delete the previous language “wherein one of said communication software packages enables said communications

terminal to”, and to move a substantial portion of the language “identify a radio signal having the maximum reception strength, and to specify a communication service provided by the communication system corresponding to the maximum reception radio signal” to be a part of the software selection unit element. Applicants submit that this is not a narrowing amendment but rather clarifies that the software selection unit identifies the strongest radio signal, specifies a communication service corresponding to that strongest signal, and selects an appropriate communication software package for utilizing the specified service. The purpose of this amendment is not for reasons related to patentability, but rather to clarify which claimed component, i.e. the software selection unit, is directed to the “identifying a strongest radio signal...” aspect of the invention.

The newly cited Jones reference has a filing date of August 30, 2002, and is a continuation-in-part of application No. 10/161,313, filed on June 3, 2002. The present application has a foreign priority date of July 26, 2002, which predates the Jones filing date of August 30, 2002 but does not predate application No. 10/161,313 filed on July 26, 2002. Upon review of the specification of Application No. 10/161,313, Applicants submit the portions of the Jones reference relied upon by the Examiner are not supported by the 10/161,313 application. Thus, the portions of Jones asserted by the Examiner are not entitled to the earlier date of 10/161,313; that is, the asserted portions are only entitled to the filing date of August 30, 2002. The priority date of the present application, July 26, 2002, precedes this date.

Because the invention recited in Claim 1 has a foreign priority date that precedes the asserted portions of the Jones reference, Applicants submit that the obviousness rejection of Claim 1 based on Rydbeck in view of Jones is improper. Also, to perfect Applicants’ claim to priority relative to Claim 1, in accordance with 37 C.F.R. § 1.55, an English language translation of applicant's certified priority document is attached.

Claim 5 has been amended to recite a software transmitting server in which the software transmitting unit thereof identifies a communication service available to the communication terminal based on customer information existing in the core network, and reads out a communication software package necessary for utilizing the identified communication service from the software storing unit. Support for this amendment is found in Applicants' originally filed specification. No new matter is added.

Korpela discloses that the radio access network (20) thereof broadcasts signals (102) indicating the types of backbone network to which it is connected (and thereby the protocols they employ), and when a mobile terminal 10 encounters, or identifies, a signal indicating a new type of backbone network, it downloads a new protocol stack from the radio access network.¹ However, Korpela does not disclose or suggest a “software transmitting unit identifies a communication service available to the communication terminal based on customer information existing in the core network, and reads out a communication software package necessary for utilizing the identified communication service from the software storing unit.” That is, in Claim 5, the software transmitting unit of the software transmitting server, not the communication terminal itself, identifies the available communication service to be utilized by the communication terminal, and reads out the appropriate communication software package.

Jones does not fill the deficiency of Korpela to disclose server identification of an available communication service, and server transmission of an appropriate communication software package. For at least the foregoing reasons, the obviousness rejection of Claim 5 over Korpela in view of Jones is improper and withdrawal thereof is respectfully requested.

Claim 6 has been amended to recite an IC card writing apparatus in which the software writing unit thereof identifies a communication service available to the

¹ Korpela, abstract.

communication terminal based on customer information existing in the core network, and reads out a communication software package necessary for utilizing the identified communication service from the software storing unit, and writes it into the IC card. As mentioned above, Korpela discloses that the radio access network (20) thereof broadcasts signals (102) indicating the types of backbone network to which it is connected (and thereby the protocols they employ), and when a mobile terminal 10 encounters, or identifies, a signal indicating a new type of backbone network, it downloads a new protocol stack from the radio access network. However, Korpela does not disclose or suggest a software writing unit that identifies a communication service available to the communication terminal based on customer information existing in the core network, and reads out a communication software package necessary for utilizing the identified communication service from the software storing unit, and writes it into the IC card. That is, in Claim 6 the software writing unit of the IC card writing apparatus, not the communication terminal itself, identifies the available communication service to be utilized by the communication terminal, and reads out the appropriate communication software package.

The Official Action acknowledges that Korpela does not disclose an IC card to be attached to a communication terminal. The Official Action relies on Rydbeck in an attempt to cure this deficiency in Korpela. Rydbeck discloses a travel converter for a mobile telephone. According to Rydbeck, the communication module 120 of the mobile telephone supports a predetermined communication protocol (alleged communication software package). If a subscriber wishes to use a different protocol, the subscriber must change communication modules, i.e., select a different module and mate it with the converter of the mobile telephone.² However, Rydbeck does not disclose a software writing unit that identifies an appropriate communication service for the communication terminal, reads out a

² Rydbeck, column 5, lines 1-13.

suitable communication software package for utilizing the communication service, and writes such software into the IC card. Moreover, with Applicants' claimed invention, the IC card may be owned by an operator, and not by a user. Therefore, the operator can maintain the security of the IC card. These aspects of Applicants' invention are not disclosed or suggested by Rydbeck (or the other applied references).

MPEP §706.02(j) notes that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Also, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Without addressing the first two prongs of the test of obviousness, Applicants submit that the Official Action does not present a *prima facie* case of obviousness because both each of the applied references fail to disclose all the features of Applicants' claimed invention.

Accordingly, in view of the present amendment and in light of the previous discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully request an early and favorable action to that effect.

Respectfully submitted,

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